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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/670,645 | 09/25/2003 | David Patera | 170-002 | 6809 |
| 34845 | 7590 | 01/26/2006 | EXAMINER | |
| STEUBING MCGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720 | | | NGUYEN, CHI Q | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3635 | |

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|---------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/670,645 | PATERA, DAVID | |
| | Examiner | Art Unit | |
| | Chi Q. Nguyen | 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the applicant's patent application filed on 9/25/2003.

Drawings

The drawings are objected to because figures 1 and 4 should not include text. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard claims 1, 2, the cited limitations appear intended use limitation and there are no structural limitation being claimed thus considered indefinite. And since claims 2-6 depending upon claim 1 are also rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly (US 4,425,714).

In regard claim 1, Kelly teaches siding board installation tool 10 for temporarily supporting a first piece of siding 11 against a structure, said tool 10 being removable after said first piece of siding is at least partially secured to said structure (figure 1).

In regard claim 2, Kelly teaches the claimed invention as stated, wherein the tool is further usable for temporarily supporting a second piece of siding 12 against said structure by temporarily securing the tool to the first piece of siding 11.

In regard claim 3, Kelly teaches the claimed invention as stated, wherein the tool comprising a first longitudinal member 16 with a hook 23 at one end, the hook for temporarily securing the tool to the first piece of siding by placing the hook over the top edge of the first piece of siding (see figure 3).

In regard claim 4, Kelly teaches the claimed invention as stated, wherein the tool comprises a second longitudinal member 28.

In regard claim 5, Kelly teaches the claimed invention as stated, wherein the tool comprises a handle section 18 (see fig. 4).

In regard claim 6, Kelly teaches the claimed invention as stated, wherein the tool is adjustable to the member 28 (see col. 3, lines 10-11).

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Bodell (US 5,224,309).

In regard claim 7, Bodell teaches a tool comprising a first longitudinal member 2 with a hook 20 at one end, a second longitudinal member (where 40 points to) coupled to the first member, a handle section 10 coupled to the first and second longitudinal members (when the two members are assembled together), an adjustable seat 53 for controlling the longitudinal position of the first longitudinal member relative to the second longitudinal member along a slot 46 (see figures 2-3 and col. 2, lines 62-65).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly '714.

With regard method claims 8-12, Kelly teaches the structural elements as set forth above. However, Kelly does not teach expressly the method of installing siding on a structure by utilizing a tool. The examiner considers this would have been an obvious matter of utilizing a device because in installing or securing sidings onto building structural frames, one would obviously secure first, second siding pieces, etc. by using temporarily holding with a tool, remove the tool when the first siding piece secured with the fasteners, and repeat the same step for the next siding piece until the whole wall finished. Kelly would be motivated to follow these steps to facilitate assembly to make a wall.

Allowable Subject Matter

Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 14 is allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Richmond, Flores, Spear, Ingles, Fentz, Meyer, Rienecker, Onofrio, Bryant, Rez, Hays, Earp, Ackerman, Rempe, Leonard, Partin, Paquin, Marshall, Bates, Farmer, Wheeler and Shroyer teach building structural installing tool.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-

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6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

1/12/2006

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CQN



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